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[Notices]

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board ¹

\1\ The ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803, which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission and transferred certain functions to the Surface Transportation Board (Board). This notice relates to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 10901.

[STB Finance Docket No. 32910]

Northwestern Pacific Railroad Authority; Acquisition Exemption;
Former Northwestern Pacific Railroad Line From Southern Pacific
Transportation Company and Golden Gate Bridge, Highway and
Transportation District

Northwestern Pacific Railroad Authority (NWPRA), a noncarrier,² has filed a verified notice of exemption under 49 CFR 1150.31 to acquire former Northwestern Pacific Railroad Line real estate and rail facilities/trackage from Southern Pacific Transportation Company (SP) which extends from Healdsburg, CA (NWP MP 68.2), to Lombard Station, Napa County, CA (SP MP 63.4), via Schellville (NWP MP 40.6/SP MP 72.59), a distance of 66.85 miles.

\2\ NWPRA is an independent joint powers public agency created pursuant to California Government Code Section 6500 et seq. by virtue of an agreement among the County of Marin, the Golden Gate Bridge, Highway and Transportation District (GGBHTD), and the North Coast Railroad Authority (NCRA).

The purpose of the acquisition is to preserve the railroad corridor for potential future mass transit use.

The transaction was expected to close on or about April 30, 1996.

Freight service on the line will continue to be provided by the California Northern Railroad Company (CNRR) pursuant to long-term lease arrangement with SP.³ NWPRA will take title subject to the CNRR

lease, and CNRR will continue to provide freight service. The joint powers agreement forming the NWPRA make an express commitment that in the event the existing operator files an application to abandon or discontinue freight service over the line NWPRA is to acquire in Finance Docket No. 32910, NCRA will be entitled to obtain an easement from NWPRA permitting it to continue freight service over the line. To provide for this, NWPRA states that it will, simultaneously with the closing of this transaction, transfer a permanent and exclusive freight railroad easement to NCRA, which will become effective only upon the cessation of freight

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service by CNRR and the approval by the Board of both the transfer of the easement and the assumption of carrier responsibility by NCRA.

\3\ See California Northern Railroad Company Limited Partnership--Trackage Rights--Southern Pacific Transportation Company, Finance Docket No. 32673, (ICC served May 15, 1995).

In addition, CNRR currently operates over the segment between NWP MP 26.96 and NWP MP 25.57 pursuant to a freight easement which was retained by SP in a transaction involving GGBHT.⁴ At the closing of the transaction in Finance Docket No. 32910, SP's freight easement will be quitclaimed to GGBHTD, which will then grant to NWPRA the rights to operate over the easement area. According to NWPRA, NCRA will obtain an easement from NWPRA to provide freight service over the segment between NWP MP 26.96 and NWP MP 25.57, at the same time that it acquires the easement mentioned earlier, by which it would take over operations after CNRR ceases its operations.

\4\ See Golden Gate Bridge, Highway & Transportation District--Acquisition Exemption--Northwestern Pacific Railroad Company and Southern Pacific Transportation Company, Finance Docket No. 31689 (ICC served July 5, 1990).

NWPRA states that the future transfer of these easements will imbue NCRA with all carrier rights and responsibilities and that NWPRA will remain a noncarrier holder of the underlying real estate. NWPRA thus states that it intends in the near future to file either a Motion to Dismiss this Notice or a Petition for a Declaratory Order requesting that it be designated as a noncarrier.

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to reopen will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 32910, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue NW., Washington, DC 20423. In addition, a copy of each pleading must be served on David J. Miller, Esq., Hanson, Bridgett, Marcus, Vlahos & Rudy, 333 Market Street, Suite 2300, San Francisco, CA 94105.

Decided: May 9, 1996.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,
Secretary.

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